

REMARKS

Claims 1-2, 4-7 and 9-13 are pending in the present Application. Claims 1, 4, 9 and 11 were amended in this Response. No new matter was introduced as a result of the amendments. Support for the amendments may be found, for example, in paragraphs [0021] and [0027-28]. Entry of the amendments and favorable reconsideration is earnestly requested.

Claims 11-13 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Office Action noted that through allegedly unclear phrasing, claim 11 suggested that two transmitters were being claimed within a single unit (see page 2 of Office Action). In response, Applicants have amended claim 11 to address the examiner's concerns. Applicant believes that the present amendments to claim 11 overcomes any alleged issues of indefiniteness. Should the examiner continue to object to the presently amended claim 11 on the basis of §112, the Applicants kindly request the examiner contact the undersigned to resolve any perceived ambiguities. Withdrawal of the rejection is earnestly requested.

Claims 1-2, 4-7 and 9-13 were rejected under 35 U.S.C. §102(e) as being anticipated by Aijala et al. (US Patent 7,316,025). Applicants respectfully traverse this rejection.

Specifically, Aijala does not teach or suggest a configuration of a plurality of PPM's, having "an RF receiver that monitors a proximity of each PPM using the for receiving each wirelessly transmitted modulated signal actually received from respective PPM's, determining the modulation frequency thereof, and transmitting the modulation frequency to a remote location for processing user identification and audience measurement based on the monitored proximity of each PPM" as recited in claim 1, and similarly recited in amended claims 4, 9, and 11. As was argued earlier by Applicants, the present claims include systems and methods where each of a plurality of PPM's transmits a signal modulated with a different frequency and in which the variously modulated signals are received to enable a determination that the PPM's transmitting the modulated signals are in the vicinity. By using different modulation frequencies, the information pertaining to each PPM may be further processed for identification and audience measurement based on the proximity of each PPM.

In contrast, Aijala discloses a configuration in one embodiment (FIG. 2B) where each PPM is equipped with a transmitter (231) and receiver (234) within the monitor that

communicate through their respective antennas (232, 233) (col. 8, lines 1-26). The transmitter (231) and receiver (234) are physically separated (col. 8, lines 4-5) in order to achieve miniaturization of the personal monitor (200) (col. 8, lines 7-11). During operation, the PPM in Aijala uses a correlator (27) that takes a recovered source identification signal from a transmission (see col. 6, lines 14-50), timestamps it, and stores it in the PPM (col. 9, lines 11-17). Users of the PPM may subsequently send the signal to a central facility using a unique user identification code (col. 9, lines 17-21). In the embodiment of FIG. 2B, Aijala discloses that the transmitter (231) “may be assigned a unique transmission channel which enables the monitor 200 to identify the wireless transmitter 231, and, thus, the corresponding audience member” (col. 9, lines 28-34).

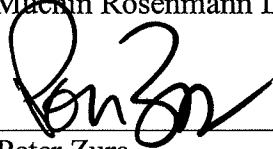
As such, the receiver (230) in Aijala would not be configured for monitoring proximity for audience measurement as presently claimed. The unique transmission channel used in Aijala only serves to identify the user within the confines of the monitor. Thus, the monitor (200), serving as the “remote location” (as apparently interpreted by the Office Action) would not function in the same manner recited in the present claims. Additionally, the monitor itself could not operate to provide “user identification and audience measurement based on the monitored proximity of each PPM.”

In light of the above arguments and amendments, Applicants submit the rejection is now overcome and should be withdrawn. Applicants respectfully submit that the patent application is in condition for allowance and request an early Notice of Allowance. The Commissioner is authorized to charge and credit Deposit Account No. 501214 for any additional fees associated with the submission of this Response. Please reference docket number 339198-00087 (P0164A).

Respectfully submitted,

Katten Muchin Rosenmann LLP

BY


Peter Zura
Reg. No. 48,196
Customer No. 77182
Phone: (312) 902-5548

Dated: May 9, 2008